

Appearance:

GOVERNMENT PLEADER for Appellants

MR PM BHATT for Respondent No. 1, 2, 3, 4, 5, 6, 7, 8, 9,10,11,12,
3,14,15,16,17,18,19

CORAM : ACTING CHIEF JUSTICE MR CK THAKKER and
MR.JUSTICE M.C.PATEL

Date of decision: 03/03/99

ORAL JUDGEMENT(Per C.K.Thakkar,Actg.C.J.)

Admitted. Mr. P.M. Bhatt appears and waives service of notice of admission. In the facts and circumstances, the matter is taken up for final hearing today.

This appeal is filed against the order passed in Special Civil Application No.8074 of 1998 by the learned Single Judge on October 6, 1998. On that day, the following order was passed by the learned Single Judge:

"Copy of this petition is served on the learned AGP with the direction of the Court.

Heard learned counsel for the parties.

At this stage, the only grievance made is that this application dated 9.9.1993 by the petitioner has not sofar been decided by the concerned authority. The petition is disposed of with direction to the respondent to decide the petitioner's pending application within two weeks. The petitioner may furnish a fresh copy of the application which is pending before the authority in case the same is not traceable."

Mr.S.R. Divetia, learned Assistant Government Pleader, contended that neither notice was ordered nor rule was issued and the petition was disposed of on the same day. According to him, therefore, the order deserves to be set aside and the matter requires to be remanded to the learned Single Judge.

Mr.P.M. Bhatt, on the other hand, submitted that a copy of the petition was served on the learned AGP with the direction of the Court and that Counsel for the parties were heard. The said fact is reflected even in the order passed by the learned Single Judge. He also submitted that an innocuous order was passed by the

learned Single Judge which does not call for interference.

In the facts and circumstances of the case, when no formal notice was ordered and no rule was issued and the petition was disposed of by the learned Single Judge on the same day, it would be in the interest of justice if the order passed by the learned Single Judge is set aside and the matter is remanded to the learned Single Judge for passing an appropriate order in accordance with the law.

On this short ground alone, the Letters Patent deserves to be allowed, and is accordingly allowed.

We may state that we express no opinion on merits of the matter and the learned Single Judge before whom the matter will be placed for hearing, will pass an appropriate order in accordance with the law, without being influenced by the observations made by us.

Letters Patent Appeal is accordingly allowed. No order as to costs.
